

# **Interim Report to Gov. Bob Holden**

**By the Missouri Energy Policy Task Force  
(August 1, 2001)**

The Energy Policy Task Force presents this Interim Report in partial fulfillment of the tasks assigned to it by Governor Holden in February 2001. In the six sessions which it has conducted, the Task Force has heard from over 30 presenters, and has formed several preliminary conclusions regarding Missouri's energy state of affairs.

## **I. Task Force Activity**

The Task Force's initial meeting was February 16, 2001 in Jefferson City. Through a facilitated process, the Task Force identified generally the causes that led to the high prices of natural gas that existed at that time. The Task Force discussed the desired outcomes that could be achieved through changes in Missouri energy policy. A schedule of future meetings was agreed upon.

All of the Task Force's subsequent meetings have been held in public. While individual members of the Task Force have had conversations with individuals representing consumer groups, energy companies, energy consultants, and government agencies, as well as individuals representing their own personal interests, no meetings of the Task Force or any of its committees have been held in private.

On March 1, pursuant to Gov. Holden's directive, the Task Force published its Initial Report. We concluded that the sudden rise in the price of natural gas and propane during the winter of 2000-01 was caused by the combined effect of factors relating to supply and demand, extremely cold weather, and federal and state regulatory practices. There was no credible evidence that the sudden rise in prices was caused by unlawful conduct. As discussed later in this report, the significant drop in natural gas, propane and petroleum prices this summer has generally confirmed the Task Force's belief that this winter's crisis was an extraordinary event.

### **A. March Meeting**

The Task Force's March 16 meeting in Jefferson City focused on the high cost of natural gas and propane. Presentations were made by Warren Wood, Manager of the Natural Gas Department, Missouri

Public Service Commission and Wayne Terpstra, area manager for Ferrellgas, LLP, one of the largest United States retail marketers of propane, headquartered in Liberty.

The Task Force also heard from Representative Carol Jean Mays, Chairman of the House Utilities Committee. She welcomed the work of the Task Force, stating that she intended to use the recommendations of the Task Force in formulating legislation for the upcoming legislative session. The Task Force also heard briefly from Phil Wright, representing several consumer groups and Kansas City Power & Light Company, as well as Steve Murray, representing UtiliCorp United Inc.

**B. April Meeting: Consumer Issues (St. Louis)**

The Task Force's April 20 meeting, conducted at the Wainwright State Office Building in St. Louis, focused on consumer issues. The Task Force heard statements from a number of individuals, including Lt. Governor Joe Maxwell, mainly commenting on the natural gas price spikes on various sectors of consumers. The Task Force also heard a number of recommendations, both short-term and long-term, on energy policy in general.

Making statements or presentations to the Task Force were:

1. Joe Maxwell, Lieutenant Governor of Missouri;
2. Deborah Chollet, Gateway Center for Resource Efficiency, Missouri Botanical Gardens, St. Louis;
3. Elaine West, Missouri Association of Community Action, St. Louis;
4. Ocie Johnson, Office of the Mayor of St. Louis;
5. Jan Yacovelli, Yacovelli's Restaurant, Florissant;
6. Dennis Kelley, Executive Director, Missouri EnergyCare, St. Louis;
7. Duncan E. Kincheloe, General Manager, Missouri Public Utility Alliance, Columbia;
8. Winifred Colwill, Executive Director, League of Women Voters of Missouri, St. Louis;
9. Edward Choklek, Woolpert Corporation, representing the Energy Committee of the St. Louis RCGA Environmental Council;
10. Ivan Eames, Central Missouri Counties' Human Development Corp., Columbia; and
11. J. Kay Smith, Ameren Corporation, St. Louis.

**C. May Meeting: Industry Issues (Kansas City)**

On May 24 the Task Force met in Kansas City, hearing mainly from representatives of public utilities and other corporations providing energy services. The meeting convened at the headquarters of Aquila, Inc. in downtown Kansas City. Aquila is a leading marketer of power and natural gas that also specializes in risk management techniques as well as independent power plants not operating as regulated public utilities. After remarks made by Jeffrey D. Ayers, General Counsel, Bradford T. Nordholm, Senior Vice President for Capacity Services - Power, and Mark Gurley, Senior Vice President and General Manager of Trading, the Task Force toured the Aquila Trading Floor, receiving explanations on how energy and related financial tools are traded in the marketplace.

The Task Force then adjourned to the Lakeside Nature Center in Kansas City's Swope Park, where it heard presentations from the following:

1. Alan H. Richardson, President, American Public Power Association, Washington, D.C.;
2. Michael C. Pendergast, Assistant Vice President and Associate General Counsel, Laclede Gas Company, St. Louis;
3. Craig Nelson, Vice President for Corporate Planning, Ameren Corporation, St. Louis;
4. Tim Kearns, Trigen Energy Corporation, Kansas City;
5. William Downey, Executive Vice President, Kansas City Power & Light Company, Kansas City;
6. Robert J. Hack, Vice President for Regulatory Affairs, Missouri Gas Energy, a division of Southern Union Company, Kansas City;
7. Richard E. Malon, Director, City of Columbia Water & Light Department; and
8. Ken Carlson, Fuels Consultant, Black & Veatch, Overland Park, Kansas.

**D. June Meeting: Energy Efficiency and conservation Issues (Springfield)**

The Task Force's next meeting was conducted on June 15, 2001 in Springfield. Hosted by City Utilities of Springfield, this session focused on energy efficiency, conservation and technology issues. After opening remarks by Kenneth McClure, Associate General Manager for Customer Relations of City Utilities and a former member of the Missouri Public Service Commission, the following individuals made presentations:

1. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, Jefferson City;
2. Tina Worley, Utility Services Manager, City of Columbia Water & Light Department;
3. Willy Haffecke, Power Systems Technician, City Utilities of Springfield;
4. Jamie Kline, Missouri Corn Growers Association and Missouri Corn Merchandising Counsel;
5. Alecia Ward, Executive Director, Midwest Energy Efficiency Alliance, Chicago, Illinois;
6. Dr. Arley Larson, Northwest Missouri State University, Maryville;
7. Joe Lucas, Vice President of Communications, Americans for Balanced Energy Choices, Alexandria, Virginia;
8. Travis Creswell, Ozark Solar, Inc., Springfield;
9. Lori Bird, Senior Energy Analyst, National Renewable Energy Laboratory, Golden, Colorado;
10. Julio Rovi, The Cadmus Group, Inc., Waltham, Massachusetts;
11. Carla Klein, The Sierra Club, Missouri Global Warming Program; and
12. Wallace McMullen, The Sierra Club, Missouri Chapter.

**E. July Meeting: Fuels, Markets and Transportation Issues (Cape Girardeau)**

The Task Force's July session was held at the Show-Me Center, Southeast Missouri State University in Cape Girardeau. Conducted on July 13, the Task Force was welcomed by Don Dickerson, Chairman of the Board of Regents of the University. This session was designed to conclude with several energy efficiency and fuel choice presenters, as well as other individuals who had not been able to attend previous sessions. The presenters were:

1. Frank B. Stork, Executive Vice President, Association of Missouri Electric Cooperatives, Jefferson City;
2. Kelley J. Ogletree, Executive Director, Missouri Oil Council, Jefferson City;
3. Glenda Thomason, International Brotherhood of Electrical Workers, Washington, D.C.;
4. Mark Krebs, Laclede Gas Company, St. Louis;
5. Sterling S. Miller, Area Manager, CMS/Viron, St. Louis;

6. Anna Garcia, Center of Energy and Climate Solutions, Global Environmental & Technical Foundation, Washington, D.C.; and
7. Ron McLinden, Environmental Analyst, City of Kansas City, and a member of the former Missouri Total Transportation Commission.

Written statements were submitted by Rick Kinn of Exelon Services, Inc. in Kansas City, and Norma Collins, Associate State Director for Advocacy for the AARP in Missouri. The Task Force also received public comment from a member of the Sierra Club concerning nuclear power and the Callaway Nuclear Plant, and from Representative Carol Jean Mays, Chairman of the House Utilities Committee.

After lunch the Task Force met in open session to set its future agenda. It determined that it would meet on August 10 and August 30 to begin work on its final report to the Governor. The Task Force tentatively decided to present its final report in late September to the Governor at Northwest Missouri State University in Maryville, an institution noted for developing its own alternative fuels energy plant.

## **II. Developments Since March 1 Initial Report**

Since the Task Force's Initial Report, we can advise that the prices of both natural gas and propane have fallen substantially. Indeed, the prices have fallen below the most optimistic levels that were predicted at our sessions earlier this spring. At times the price of natural gas this summer has fallen below \$3.00/MMBtu, which is lower than the summer 2000 prices that ranged in the area of \$3.75 to \$4.25. Reports show that exploration and production have increased and storage levels have increased to levels far above that of the summer 2000. Some natural gas utilities have reportedly begun to take steps to manage price volatility.

As natural gas and propane prices began to fall in late spring, petroleum and gas prices unexpectedly began to increase. In Missouri the price of regular unleaded gasoline rose to a high of \$1.79. As consumers began to conserve, and as refinery production increased, the price of gasoline dropped just as abruptly. By early July, the average price in Missouri ranged between \$1.20 and \$1.30 per gallon for unleaded regular gasoline. While consumers may be perplexed by these fluctuations in energy prices, we are cautiously optimistic that the laws of supply and demand are working.

The Task Force is not aware of any new information indicating that the price volatility experienced by Missouri consumers during last winter was a result of unlawful conduct. However, it

appears that the energy crises experienced by California may have been exacerbated by natural gas suppliers withholding capacity, which caused supply problems for electric generators fueled by natural gas. Additionally, there have been allegations that suppliers manipulated electric spot markets with bidding strategies and by taking certain electric generation plants off-line for reasons other than to perform routine or unanticipated maintenance. California officials have claimed that consumers were overcharged by \$9 billion, which suppliers have vehemently denied. These claims are currently the subject of proceedings being conducted by the Federal Energy Regulatory Commission.

### **III. Initial Recommendations**

While the Task Force intends to make a number of specific and general recommendations in its final report, it is prepared to make three specific recommendations at this time for the Governor's consideration.

#### **A. Lead the Way to Establish a Comprehensive Missouri Energy Policy by Requiring State Government to Adhere to Specific Facilities, Vehicle and Reporting Standards**

The Task Force recommends that the Government of the State of Missouri lead the way to a comprehensive energy policy by setting the example. State law currently contains a number of goals and objectives for state facilities and vehicle fleets that are not being attained. By assuring that existing standards are being met and setting attainable goals in other areas, state government can reduce its energy consumption and costs, but more importantly set an example for its citizens to follow.

The Task Force makes these specific recommendations:

#### **1. Fully Implement The Energy Efficiency In State Facilities Program**

During the past four fiscal years, the Department of Natural Resources' Energy Center has used \$450,000 of petroleum violation escrow funds (pursuant to Section 8.849<sup>[1]</sup>) to pay for audits of state-owned and state-leased buildings. Approximately 5% of state structures have been audited. The audits identified energy-efficiency measures exceeding \$7.5 million that could achieve annual savings of more than \$1.3 million. About 20% of the dollar-value of these projects has been implemented and savings are now being achieved.

However, the state can and should do better. Missouri has approximately 62.5 million square

feet of state-owned buildings. Assuming that energy use costs an average of \$1.25/square foot for these structures, annual state energy costs exceed \$78 million.<sup>[2]</sup> Currently, Section 8.835 requires the Office of Administration to initiate projects with a simple energy savings payback period of 5 years or less. If such a plan were implemented on a comprehensive basis, the State of Missouri would save approximately \$15.6 million annually on its energy bills. We consider the existing statute to be the minimum goal for state government. Many energy retrofit projects with payback periods exceeding five years have merit and could result in savings significantly exceeding \$15.6 million.

In any renovation of state buildings, cost-effective energy efficiency and retrofitting projects should be implemented to achieve at least a 20% reduction in energy consumption. Such savings can be achieved if the structures are designed to meet the ASHRAE 90.1 (1999) minimum energy efficiency standards.<sup>[3]</sup> In constructing new buildings, the state should be able to accomplish 30% to 50% in energy savings by including cost-effective energy efficient equipment, materials and design techniques into the building design. Existing law requires that such new and renovated state buildings, at a minimum, meet nationally recognized ASHRAE 90.1 standards. Because projects can exceed ASHRAE 90.1 and remain cost-effective, the state should exceed these standards where appropriate to maximize energy savings.

The new arena planned for the University of Missouri at Columbia, as well as other new major projects where state funding plays a major role, should be designed to serve as national examples of energy efficiency.

In addition to implementing current statutory requirements, legislation should be enacted to achieve the following goals:

- a. Require all state buildings to be analyzed for energy efficiency by the end of Fiscal Year 2008, including data on energy consumption and cost. Such analysis or audit shall quantify the annual lost-opportunity costs for not implementing an energy efficiency program.
- b. Extend the reach of Section 8.835 to require that all energy projects with a simple energy savings payback period of 15 years or less must be initiated.
- c. Require that all designs initiated for construction or renovation of a state building maximize energy savings and exceed minimum ASHRAE standards whenever cost-effective. The use of life-cycle analysis should guide the determination of the cost effectiveness of design components for

new buildings and energy retrofits of existing buildings.

**2.      The Fleet Vehicle Requirements To Use Alternative Fuels Should Be Enforced and Expanded**

A fuel conservation program for state vehicles currently exists, pursuant to Section 414.400, et seq. However, the Task Force believes that it should be expanded so that by 2012, 50% of all state-owned and contract vehicles capable of operating on alternative fuel will actually be operating on such fuel. Currently, Missouri law requires that 30% of all fuel purchased annually for such vehicles be an alternative fuel, provided that alternative fuel refueling stations are available. Alternative fuels include alcohol-based fuels like methanol and ethanol, as well as natural gas, liquefied petroleum gas, hydrogen and electricity.

In order to make these goals attainable, the state should devote resources to the development of refueling stations for alternative fuels, which will aid in state agency use, as well as public use of alternative fuels.

The Governor should require each state agency to report in its annual budget request the percentage of vehicles complying with this requirement and what plans are being made to achieve this goal.

**3.      Agencies Achieving Savings From Energy Efficiency Achievement Should Be Rewarded**

While the goal of achieving energy efficiency is to reduce the cost of state government and the burden on taxpayers, the Task Force recognizes that state agencies may be reluctant to become more efficient if those efficiencies result in a dollar-for-dollar reduction in their budgets. The policy of the State of Missouri, either by law, regulation or executive order, should allow an agency that achieves quantifiable energy savings to retain a reasonable portion of that amount in its budget to further the agency's mission.

As part of such an incentive program, the heads of state agencies should be encouraged to designate an "energy efficiency officer" as a collateral responsibility of an appropriate agency employee to develop and oversee such energy efficiency programs. Such individuals and their superiors should be



evaluated on their performance in this regard on an annual basis as part of their regular performance review. Attaining energy and environmental efficiency should be an element on which performance review and compensation decisions are made for those individuals appropriately tasked to design, implement and oversee energy efficiency programs.

**4. The Office Of Administration Should Implement “Performance Contracting” Principles To Achieve Energy Efficiency**

The Task Force believes that state agencies should aggressively explore financing options that will accelerate implementation of energy efficiency projects in state buildings. One option that deserves close examination is “performance contracting.” State contracting and procurement statutes should be amended to permit agencies to contract with qualified private energy services companies that offer comprehensive programs to design efficiency projects, arrange appropriate financing, oversee construction, and verify the savings achieved.

State law should also be changed to permit the Office of Administration the ability to carry out “design and build” projects for energy retrofits of state buildings. Such projects would permit OA to award both the project design phase and the project construction phase to a single bidder in one contract where deemed appropriate. This will streamline implementation of energy projects, capture energy savings sooner, and be consistent with the performance contracting approach.

**B. Amend Chapter 393 to Grant Public Service Commission Greater Authority to Allocate Refunds Among Ratepayers**

During the winter of 2000-2001 natural gas prices increased to levels that had never before been experienced. At the same time certain funds became available through the settlement of cases pending before the Federal Energy Regulatory Commission concerning Williams Gas Pipeline Central’s storage service. Litigation before FERC resulted in a refund order of approximately \$620,000 to Missouri Gas Energy (MGE) to be passed through to its customers.

The high price of natural gas caused MGE to suggest that the Williams refund be directed to low-income and other needy consumers. The Staff of the Public Service Commission and the Office of the Public Counsel opposed the request of MGE to distribute the refunds to low-income customers.

They argued that such a proposal would discriminate against eligible consumers otherwise entitled to the refunds in violation of Sections 393.130.2 and 393.140(11). After briefing and argument on the issue, the Public Service Commission agreed in a 3-1 vote. See In re Missouri Gas Energy, No. GE-2001-393 (March 6, 2001) (Simmons, C., dissenting).

The Task Force recommends that Chapter 393 of the Missouri Revised Statutes, which regulates natural gas corporations among other entities, be amended to provide the Commission the power to order limited types of refunds to assist needy ratepayers. New Section 393.143 would grant the Commission authority to allocate sums representing unauthorized use charges, penalties or refunds from interstate or intrastate pipelines received by gas corporations among ratepayers in a manner consistent with the public interest.

Language which the Task Force believes will accomplish this purpose is attached. See Exhibit 1. The proposal is sufficiently broad to permit the Public Service Commission to fashion a remedy that could benefit residential ratepayers not eligible for LIHEAP funding, such as the remedy recently ordered by the Kansas Corporation Commission. See In re Greeley Gas Co., et al., No. 99-GRLG-405-GIG (May 3, 2001, as clarified, June 28, 2001) (eligibility limited to residential ratepayers with family income at or below 300% of the federally defined poverty level who did not receive a full LIHEAP benefit). This proposal would also permit the Commission to order refunds to selected commercial users who, for example, are not-for-profit corporations providing temporary shelter and residential care facilities to the poor.

### **C. Establish the Missouri Energy Policy Council**

An Energy Policy Council should be established by law to advise the Governor on matters of state, as well as local, regional and national, energy policy. The Task Force recommends that the council consist of approximately 15 members, and that permanent members include representatives from the Department of Natural Resources, the Department of Economic Development, the Public Service Commission and the Office of the Public Counsel. A state senator and a state representative should also be members.

The Task Force believes that the ability of the council to advise the Governor will be enhanced if it includes representatives of electric utilities, natural gas utilities, utility workers, non-utility energy

companies, the propane industry, the petroleum industry, and industrial, commercial and low-income consumers. Consideration should be given to consolidating the responsibilities of existing councils and commissions that have been given specific duties in energy or related efficiency areas. Such entities include the Missouri Ethanol and Other Renewable Fuel Services Commission and the Missouri Propane Education and Research Council.

## **EXHIBIT 1**

### **Proposal to Add a New Section 393.143 to Chapter 393, Missouri Revised Statutes**

Notwithstanding any statutory provision of this Chapter to the contrary, the Commission shall have the authority and discretion for good cause shown upon notice and after an evidentiary hearing to direct that sums representing unauthorized use charges, penalties or refunds from an interstate or intrastate pipeline, including interest on such sums, received by a gas corporation, as well as any penalties resulting from the operation of a gas corporation's tariffs, be allocated among ratepayers in such manner as the Commission finds to be in the public interest.

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[1] All statutory references are to the Revised Statutes of Missouri (2000), unless otherwise noted.

[2] The \$1.25/square foot figure for energy costs is based on an analysis of a sample of utility bills from 1998, adjusted for inflation, prepared by the Department of Natural Resources Energy Center.

[3] The American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) standards are incorporated into Missouri law under Sections 8.812 and 8.837.

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